

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: CHIELENS, Alain; METTAVANT, Pierre

SERIAL NO.: 09/194,839 (International Serial No. PCT/FR97/00750)

FILED: December 3, 1998 (International Filing Date: 14 April 1998)

TITLE: CYLINDRICAL DRUM SUPPORT DEVICE

PETITION FOR A QUESTION NOT SPECIFICALLY PROVIDED FOR
UNDER 37 C.F.R. § 1.182

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

In accordance with 37 C.F.R. § 1.182, Applicant petitions for a question not specifically provided for, namely, proceeding to consideration on the merits due to a processing error.

1. U.S. Serial Patent No. 09/194839 (the '839 application) was filed as a U.S. National Stage application on 3 December 2008.
2. A Notice of Abandonment was sent on 19 July 2001 for failing to pay the national stage fee.
3. A Petition to Withdrawal Holding Abandonment was immediately filed on 1 August 2001, providing evidence of the receipt of the national stage fee. The fee was paid by check. A copy of a stamped acknowledgment postcard indicated that the payment was received.
4. A Petition to Proceed under 37 C.F.R. § 1.42 was filed on 3 December 1998 because Mr. Pierre METTAVANT is deceased. This Petition was dismissed on 15 February 2000 for failure to include a statement regarding the sole heirs of Mr. Mettavant.

5. A Renewed Petition to Proceed under 37 C.F.R. § 1.42 was filed on 20 March 2000, responsive to the dismissed petition. The Renewed Petition submitted the proper Statement by Attorney under 37 C.F.R. § 1.42 to correct the defects of the petition.
6. A Decision on Petition was sent on 24 October 2001. This Decision granted the Petition under 37 C.F.R. § 1.42 and vacated the holding of Abandonment. The application was directed to continue to the examination process. A copy of this Decision on Petition of 24 October 2001 is attached hereto.
7. No further communication has been received since 24 October 2001. Not further notice of abandonment has been received. Over seven (7) years have passed since the application should have been set for examination. Several factors have contributed to the lapse in communication, including the conversion to electronic files, the change of address of the Applicant's attorney, customer number address, and the inventor being deceased.
8. Applicant and Applicant's attorney have reviewed the U.S. Patent and Trademark Office information available on the website, and the file is incomplete. The status is listed as abandoned, even though the Petition was granted and the abandonment was vacated. The file wrapper is incomplete. The petitions and decisions and other documents are not present. The only documents are the original copy of the application as filed and the documents filed to secure review of the '839 application by Applicant's attorney.
9. Applicant contacted the listed Examiner to discuss the '839 application. The Examiner did not have access to any of the information or history of the '839

- application. The Examiner had no knowledge of the efforts of the Applicant to pursue the application, even though an inventor had died. The Examiner had no suggestion for activating the application.
10. Applicant's attorney respectfully presents the Petition under 37 C.F.R. § 1.182 in order to have the '839 application examined.
 11. Alternatively, Applicant's attorney presents the Petition under 37 C.F.R. § 1.183 to suspend the rules in order to have the '839 application examined.

Applicant respectfully requests the Commissioner to grant the Petition for a Question Not Specifically Provided For, or, alternatively, Petition for Suspension of Rules. There is a simple solution to the processing errors, including the missing file history, ambiguous status, lack of notice, and changes of address that have occurred.

Applicant's attorney acknowledges the extensive time delay. Such delay is regrettable, and the Applicant should not be penalized for the situation. The file transfers in the U.S. Patent and Trademark Office, and the change of address of Applicant's attorney should not be attributed to adversely affect the Applicant.

Applicant has enclosed the required Petition Fee under 37 C.F.R. § 1.17(f). Applicant respectfully requests refund for this government fee because the U.S. Patent and Trademark Office was responsible for much of the delay and ambiguous status of the present application. The Examiner had no other suggestion for the proper procedure, requiring the filing of this particular Petition under 37 C.F.R. § 1.182 or 1.183.

Applicant petitions for a question not specifically provided for, namely, examination of U.S. Serial No. 09/194839 as PCT/FR98/00750.

Respectfully submitted,

December 19, 2008
Date
Customer No. 24106

/Andrew W. Chu/
John S. Egbert; Reg. No. 30,627
Andrew W. Chu; Reg. No. 46,625
Egbert Law Offices PLLC
412 Main Street, 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 fax

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: CHIELENS, Alain; METTAVANT, Pierre

SERIAL NO.: 09/194,839 (International Serial No. PCT/FR97/00750)

FILED: December 3, 1998 (International Filing Date: 14 April 1998)

TITLE: CYLINDRICAL DRUM SUPPORT DEVICE

CERTIFICATE OF MAILING UNDER 37 CFR 1.8(a)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that the attached correspondence comprising:

PETITION FOR A QUESTION NOT SPECIFICALLY PROVIDED FOR
UNDER 37 C.F.R. § 1.182

is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

or by electronic filing and by fax to 571-273-0459 on December 19, 2008.

Respectfully submitted,

December 19, 2008
Date

Customer No. 24106

/Andrew W. Chu/
John S. Egbert: Reg. No. 30,627
Andrew W. Chu: Reg. No. 46,625
Attorney for Applicant
Egbert Law Offices PLLC
412 Main Street, 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 fax